

By: Johnson

H.B. No. 3702

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of Auctioneers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1802.001, Occupations Code, is amended to read as follows:

Sec. 1802.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Auctioneer ~~[Education]~~ Advisory Board.

(3) "Auction" means the sale of property by competitive bid using any method, format, or venue.

(4) "Auction company" means a person who engages in the business of arranging, managing, sponsoring, advertising, or conducting auctions.

(5) "Auctioneer" means any individual ~~[person]~~ who:

(A) sells or offers to sell property of another person by live bid at auction, with or without receiving consideration~~, or~~

~~(B) solicits, negotiates, or executes an auction listing contract].~~

(6) "Commission" means the Texas Commission of Licensing and Regulation.

(8) "Department" means the Texas Department of Licensing and Regulation.

(8-a) "Executive director" means the executive

1 director of the department.

2 (9) "Fund" means the auctioneer education and recovery  
3 fund.

4 (10) "Personal property" means any property other than  
5 real property[, ~~including all tangible and intangible types of~~  
6 ~~property~~].

7 (11) "Real property" means land, including  
8 improvements, fixtures, and other property appurtenant to or used  
9 in connection with the land, and any other estate, interest, or  
10 legal or equitable right in the land, improvement, fixture, or  
11 appurtenant property.

12 [~~(12) "Recurring basis" means more than once every 24~~  
13 ~~months.~~]

14 (13) "Sealed bid auction" means a sealed bidding  
15 procedure that incorporates or allows for the competitive  
16 increasing or decreasing of bids after the opening of sealed bids.

17 SECTION 2. Section [1802.002\(a\)](#), Occupations Code, is  
18 amended to read as follows:

19 Sec. 1802.002. APPLICABILITY. (a) This chapter does not  
20 apply to:

21 (1) a sale conducted by order of a United States court  
22 under Title 11, United States Code;

23 (2) a sale conducted by an employee of the United  
24 States, this state, or a political subdivision of this state in the  
25 course and scope of employment;

26 (3) a sale conducted by a charitable, religious, or  
27 civic organization, including an organization having a tax exempt

1 status under Section 501(c), Internal Revenue Code of 1986, or  
2 organized as a nonprofit entity, if the person organizing,  
3 arranging, or conducting the auction receives no compensation;

4 ~~(4) a sale conducted by any person of the person's~~  
5 ~~property if the person is not engaged in the business of selling~~  
6 ~~property at auction on a recurring basis;~~

7           (5) a foreclosure sale of real property personally  
8 conducted by a trustee under a deed of trust;

9           (6) a foreclosure sale of personal property personally  
10 conducted by:

11                   (A) a person who holds a security interest in the  
12 property, including a mortgage; or

13                   (B) an employee or agent of a person described by  
14 Paragraph (A) acting in the course and scope of employment, if:

15                           (i) the employee or agent is not otherwise  
16 engaged in the auction business; and

17                           (ii) all property for sale in the auction is  
18 subject to a security agreement;

19           (7) a sale conducted by sealed bid without the option  
20 of increasing or decreasing the amount of a bid;

21           (8) an auction conducted only for student training  
22 purposes as part of a course of study approved by the department;

23           (9) an auction conducted by a posted stockyard or  
24 market agency as defined by the federal Packers and Stockyards Act  
25 (7 U.S.C. Section 181 et seq.), as amended;

26           (10) an auction of livestock conducted by a nonprofit  
27 livestock trade association chartered in this state, if the auction

1 involves only the sale of livestock owned by members of the trade  
2 association;

3 (11) an auction conducted by a charitable or nonprofit  
4 organization chartered in this state, if the auction:

5 (A) is part of a fair that is organized under  
6 state, county, or municipal authority; and

7 (B) involves only the sale of property owned by  
8 the organization's members; or

9 (12) a sale or auction conducted by an auctioneer,  
10 while the auctioneer is physically located outside of this state.

11 SECTION 3. This Act takes effect on September 1, 2015.

12 SECTION 4. Not later than March 1, 2016, the Texas  
13 Commission of Licensing and Regulation shall adopt rules to  
14 implement the changes made by this Act.